

HOUSE BILL No. 1947

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-17-4; IC 30-4-3-27.

Synopsis: Cy pres in charitable trusts and corporations. Provides that the following may bring an action under the cy pres doctrine against a charitable trust or corporation: (1) The settlor of the trust. (2) A beneficiary of the trust or charitable corporation. (3) The attorney general. (4) A donor to a charitable trust or charitable nonprofit corporation if the donor has contributed at least \$1,000 to the trust or corporation and the trust or corporation has solicited and received more than \$25,000 in public donations or public contributions. (5) A beneficiary of the charitable corporation. (6) A taxpayer of a governmental entity that has provided more than \$500,000 in subsidies, tax credits, or tax exemptions to the trust or charitable nonprofit corporation. Allows a living heir of a donor of a charitable contribution to a trust or charitable corporation to present evidence of the intent of the donor of a charitable contribution.

Effective: July 1, 2001.

GiaQuinta

January 17, 2001, read first time and referred to Committee on Judiciary.



C
o
p
y

Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1947

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-17-4-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as
3 provided in subsection (b) **and section 4.1 of this chapter**, the validity
4 of corporate action may not be challenged on the ground that the
5 corporation lacks or lacked power to act.

6 (b) A corporation's power to act may be challenged in a proceeding
7 against the corporation for a declaratory judgment or to enjoin an act
8 where a third party has not acquired rights. The proceeding may be
9 brought by the attorney general or a director.

10 SECTION 2. IC 23-17-4-4.1 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2001]: **Sec. 4.1. The following may bring an action against a
13 charitable nonprofit corporation under the cy pres doctrine as set
14 forth in IC 30-4-3-27:**

15 (1) **The attorney general.**

16 (2) **A donor, if:**

17 (A) **the donor has contributed at least one thousand dollars**

2001

IN 1947—LS 7495/DI 87+



C
o
p
y

(B) the corporation has solicited and received public

donations or public contributions of more than twenty-five thousand dollars (\$25,000).

(3) A taxpayer of the governmental entity that provided the corporation with a subsidy, tax credit, or tax exemption, if the corporation has received more than five hundred thousand dollars (\$500,000) in direct or indirect income or property tax subsidies, credits, or exemptions from the governmental entity.

SECTION 3. IC 30-4-3-27, AS AMENDED BY P.L.41-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 27. (Cy Pres Doctrine) (a) If property, is given to a trust **or charitable nonprofit corporation** for a benevolent public purpose and the property is to be applied to a particular charitable purpose, and:

(1) in the case of a charitable trust, or charitable nonprofit corporation, it is or becomes impossible, impracticable, or illegal to carry out the particular purpose; ~~and~~ or

(2) in the case of a charitable nonprofit corporation, the corporation has substantially changed the corporation's purpose;

if the settlor **or donor** manifested a more general intention to devote the property to charitable purposes, the trust **or charitable corporation** need not fail, but the court may direct the application of the property to some charitable purpose which falls within the general charitable intention of the settlor **or donor**.

(b) An action may be brought against the trust or corporation under this section by the following:

(1) The settlor of the trust.

(2) A beneficiary of:

(A) the trust; or

(B) the charitable corporation.

(3) The attorney general.

(4) A donor to the trust or charitable corporation, if:

(A) the donor has contributed at least one thousand dollars (\$1,000) to the trust or charitable corporation; and

(B) the trust or corporation has solicited and received public donations or public contributions of more than twenty-five thousand dollars (\$25,000).

(5) A taxpayer of the governmental entity that gave the trust or corporation the subsidy, tax credit, or tax exemption if the

C
o
p
y



1 **trust or corporation has received more than five hundred**
2 **thousand dollars (\$500,000) in direct or indirect income or**
3 **property tax subsidies, credits, or exemptions from the**
4 **governmental entity.**

5 **(c)** A living heir of the settlor **or a living heir of a donor of a**
6 **charitable contribution** or a living beneficiary named in the original
7 trust agreement may present evidence to the court of:

8 (1) the heir's or beneficiary's opinion of the settlor's **or donor's**
9 intent; and

10 (2) the heir's or beneficiary's wishes;
11 regarding the property given in trust **or to the charitable corporation.**

C
o
p
y

